

REMARKS:

This amendment is for the purpose of amending the Specification in the original application by canceling claims 7, 11 and 20 without prejudice to Applicants' rights to file divisional claims on the matter contained therein and amending claims 1, 6, 13, 15 and 16 so that claims 1, 2, 4 through 6 and 12 - 19 remain in this application.

The Official Action rejects claims 1 - 2, 4, 6 - 7, 11 - 16 and 18 - 20 under 35 U.S.C. 103(a) as being unpatentable over So, U. S. Patent 6,487,991 B2. The Examiner has fully researched and considered the prior art and stated that the claimed latching mechanism is well known in the art and therefore no further search or consideration is necessary for the reconsideration of Jepson type claims. Therefore, Applicants have amended claims 1, 13 and 16 in Jepson form to thus admit the teachings of the So patent and believe that the rejection of the claims pending from these independent claims in the instant invention has been overcome. So teaches a launching apparatus as now fully described in the preamble to the Jepson claim but does not teach multiple projectiles. In fact, So teaches away from putting multiple projectiles in the same launching mechanism by stating specifically beginning on line 38 of column 5, but elsewhere as well in the specification that "a bird is put on the fabric and the cradle rods are folded into the interior of the box" not more than "a" and thus not more than one (1). So also does not teach, suggest, claim or show putting "a" bird into the closed box as it is impossible to do so as the cradle rods, when in the closed position, are arranged in close proximity when the bird launcher is in the closed position. Therefore, So does not and cannot teach that a plurality of projectiles are captured in the loop when the movable members are in the closed, armed position as recited in the improvement made by Applicants in claims 1 and 16. Furthermore, as So does not and cannot teach that a plurality of projectiles are captured in the loop of material when in the closed, armed position, So does not nor cannot also teach that a plurality of projectiles are inserted into the loop of material through a pour spout formed through a wall in the mounting base as claimed in Applicants' claim 13. It should also be obvious that if multiple projectiles were to be inserted in the loop of So, the projectiles could not be captured therein as the box of So has multiple large holes disposed therethrough for ventilation, the fabric is an open weave for the same purpose and the small projectiles used in war gaming exercises cited in Applicants specification and claimed in

claim 13 would merely fall out. Thus, the rejection of claims 1, 13 and 16 under 35U.S.C.103(a) based upon So has been overcome. Any further rejection under 35U.S.C.103(a) based upon Sparkman U. S. Patent 6,182,609 B1 which was cited in the Office Action dated 09 March 2004 has also been overcome though Sparkman teaches insertion of "game birds through opening 12a in front wall 12." It is readily apparent that a plurality of small objects such as recited in Applicants' claims could not be contained in the mesh netting of Sparkman as the mesh netting must be sufficiently open to keep the birds live in order to fulfill the purpose of Sparkman. Therefore, Applicants believe that the improvement cited in the amendments to independent claims 1, 13 and 16 are fully patentable over So or any other reference in the field and further believe that dependent claims 2, 4 through 6, 12, 14, 15 and 17 - 19 still pending are now in condition for allowance and respectfully request reconsideration of allowance thereof.

The Official Action alternatively rejects claim 1 under 35 U.S.C. 103(a) as being unpatentable over So, U. S. Patent 6,487,991 B2 in view of Martin, U. S. Patent 2,974,954. Since the reference to So has been overcome by amending the independent claims into Jepson form to admit So and similar launching mechanisms, Applicants also believe that the rejection of claim 1 as being unpatentable over So in view of Martin has been overcome. Neither, So nor Martin teach a plurality of projectiles and in fact, teach only singular elements. For instance So teaches "a" bird and Martin teaches "a" missile. The Examiner attention is drawn to lines 11 and 39 of column 2, and all the claims of Martin and the aforementioned reference on line 38 of column 5 in So. As stated above in the discussion of So, a plurality of projectiles is not mentioned and therefore neither Martin nor So alone nor So in view of Martin can teach a plurality of projectiles launched from a single launching mechanism as now recited in Applicants' claim 1. Sparkman, U. S. 6,182,609B1 and Lalor, U. S. Patent 5,983,551 cited in the Official Action dated 9 March 2004, however, do teach multiple birds and dummies launched from an apparatus but Lalor does not launch from a fabric loop and the device of Sparkman would not contain the small projectiles now claimed by Applicants. Therefore, the references to Sparkman, Lalor and combinations of Sparkman, Lalor or Martin with So are also effectively overcome by admitting the launching mechanism of So, and those like So, and improving upon these mechanisms to contain and launch a plurality of projectiles selected from the group

comprising paintballs, hollow thermoplastic balls, metal BB's, thermoplastic BB's, or combinations thereof. Thus, Applicants respectfully request reconsideration and allowance of claim 1 with regard to the rejection advanced under 35 U.S.C. 103(a) based on So in view of Martin and the dependent claims pending therefrom that remain in this application.

The Official Action rejects claims 5 and 17 under 35 U.S.C. 103(a) as being unpatentable over So, U. S. Patent 6,487,991 B2 in view of Engeli, U. S. Patent 3,831,521. As Applicants have overcome the rejection of the independent claims 1, 13 and 16 as unpatentable over So, Applicants believe that the claims pending therefrom are allowable with the independent claims because claims 5 and 17 merely limit the scope of the independent claims from which they pend. Applicants respectfully request reconsideration and allowance of claims 5 and 17 however, should the Examiner persist in rejecting claims 5 and 17, Applicants respectfully request the Examiner's assistance in making the claims allowable.

Applicants are greatly appreciative of the Examiner's comprehensive search, erudite consideration and prompt action in the examination of this docket and also greatly appreciative of the art made of record not relied upon as kindly provided by the Examiner.

Applicants have canceled claims 7, 11 and 20 and amended claims 1, 6, 13, 15 and 16 to overcome the rejection of claims 1 - 2, 4, 6 - 7, 11 - 16 and 18 - 20 based upon 35 U.S.C. 103 (a) as unpatentable over So, claim 1 under 35 U.S.C. 103 (a) based on So in view of Martin, or claims 5 and 17 under 35 U.S.C. 103 (a) based on So in view of Engeli thereby placing this application in condition for allowance. Thus, claims 1 - 2, 4 - 6, and 12 - 19 remain in this application and Applicants respectfully request allowance thereof.

In view of the above, an Action on the merits of this application, as amended, and an allowance thereof is respectfully requested.

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